

Workers' Compensation Advisory Committee (WCAC)

Meeting Minutes

December 8, 2003

INTRODUCTIONS:

PRESENT:

COMMITTEE MEMBERS PRESENT:

Business Representatives: Amber Balch, Association of Washington Business; Mike Sotelo, W.G. Clark Construction, Inc.; Jon Warling, Mar-Jon Orchards;

Labor Representatives: Robby Stern, Washington State Labor Council, AFL-CIO; Owen Linch, Joint Council of Teamsters; Dave Johnson, WSBCTC for Roger Boatwright, WA State Building & Construction Trades Council

Self-Insured Employer's Representative: Dave Kaplan, WSIA for Lori Carlson, Sellen Construction Company

Self-Insured Worker's Representative: Ellie Menzies, Service Employees State Council

Ex Officio Member: Tom Egan, Board of Industrial Insurance Appeals (BIIA)

Chair: Bob Malooly, Chair

Recorder: Bev Gunther

COMMITTEE MEMBERS NOT PRESENT: Roger Boatwright, WA State Building & Construction Trades Council; Lori Carlson, Washington Self-Insurance Association

PRESENTERS: Paul Trause, Matt Corwin of Milliman USA, Inc., Tom Hess, Sandy Dziedzic, Diana Drylie, Tom Egan, Jerry Gilliland, Cathy Peda of Gilmore Research, Julie Boyer of Sterling Associates, Jamie Lifka, Jaymie Mai, Dave Overby

GUESTS: Sue Holm and Jennifer Bender, WDTL; Sharon Morris, U of W; Sara Crumb, WSTLA; Nancy Dicus, TOC; Tammie Hetrick, WRA; Jennifer Strus and John Dziedzic, Senate Commerce & Trade Staff; Jill Reinmuth and Chris Cordes, House Commerce & Labor staff; Jan Gee, G&G Public Affairs; Lauren Gubbe, AGC; Frank Prochaska, AWPPW; Dan Fazio, Farm Bureau; Austin Sumner

L&I STAFF: Peter Lichtblau, Suzanne Mager, Mark Mercier, Dave Bonauto, Nichole Runnels

Introductions

Review/Approval of August 12 and August 27, 2003 Meeting Minutes – Minutes were approved as presented.

Director's Report – Paul Trause

Paul announced the Governor would be forming a work group to include equal representation from business and organized labor, to review Washington's workers' compensation (WC) insurance system and propose changes. The work group will review L&I's rate setting and reserving policies, and may recommend additional legislative reforms to be taken up during the

2005 legislative session. Paul noted the Governor indicated a consensus between business and labor was needed to achieve changes to improve the WC system.

Paul indicated the department would not be in control of this process, but would be working with the Governor's office to develop the forum to reach consensus. Paul noted a meeting is scheduled for the week of December 15 to discuss the initial schedule for this work group.

Paul reported the department would continue to move forward with administrative and management changes it is currently working on related to claims management and return to work. In addition, the department will be moving forward with legislative packages regarding:

- Fraud (to change how the department deals with fraud)
- Vocational Rehabilitation (to hold private vocational rehabilitation counselors accountable, pay for performance, and speed up the process)

Labor noted they continue to meet and discuss the issue of vocational rehabilitation, and would be open to discussions with the department on this subject.

Paul announced the department would be pulling together a group of actuaries for open discussion of actuarial practices and financial status of the State Fund. Paul invited business and labor to join in that discussion. Paul indicated the department would be deciding on who would be involved and how the process would work, and would share a draft with business and labor. The discussion is targeted for January.

Business asked for clarification and rationale for the 9.8% rate increase vs. the proposed 19.4% increase.

Paul indicated the decision to go with the 9.8% rate increase was his. The decision was based on the economical condition of the state for employers and workers, the health of the State Fund, and the needs of the coming year. Paul noted the department heard a lot of testimony concerning the economical condition of the state at the rate hearings – that testimony was considered.

Labor asked where the level of the Contingency Reserve would be at the end of the year given the 9.8% rate increase decision. Paul indicated it would be between 2 and 3%. Labor indicated they had deep concerns with the Contingency Reserve being at a level between 2 and 3% given the department's experience with unanticipated events. Labor reiterated their openness to discussion to reach consensus on the appropriate level for the Contingency Reserve.

Financial Update

Milliman USA Review of Labor and Industries Reserves – Matt Corwin, ACAS, Milliman USA, Inc.

A copy of the Milliman USA's *Actuarial Review of Reserves as of June 30, 2003 for Department of Labor and Industries*...dated November 6, 2003 was provided. Matt Corwin indicated the scope of the review included:

- Accident and medical aid fund loss and loss adjustment expense reserves by benefit type,
- Pension fund reserve calculations,

- Independent estimate of accident and medical aid loss reserves by benefit type,
- Reasonableness of the discount rates and the provision for adverse deviation,
- Changes made to the reserving methodology,
- Review of the balance sheet and income statement items for the above, plus reserve for net retrospective rating adjustments and estimate of premiums receivable, and
- Supplemental Pension Fund loss reserve.

The result of the review as stated by Milliman USA: “We believe the reserves make a reasonable provision for all unpaid loss and loss adjustment expense obligations of the Department of Labor and Industries under the terms of its policies and agreements.” Milliman USA does this review at the end of each fiscal year for the purpose of providing input and guidance for the State Auditor in their review of L&I’s finances, as well as to provide guidance to L&I management.

Labor questioned whether Milliman looks at policies and agreements about the Contingency Reserve during their review?

Mr. Corwin indicated no, they review the actual reserves specifically. The Contingency Reserve then falls out as the difference between the assets and the liabilities. However, they do look at court and law changes (such as the *Cockle* decision and the PPD hearing loss bill) and their impacts during their review.

Financial Update – Tom Hess

Tom provided the following financial update:

- Contingency Reserve decreased less than expected. The decrease in the quarter was only \$33 million putting the Contingency Reserve at \$424 million. The department had expected the Contingency Reserve to decrease \$68 million.
- Revenues were up \$45 million more than expected due to the positive stock market.
- Expenses were \$10 million more than expected. There were \$18 million more in claims expenses incurred during the quarter, and \$5 million of additional claims reserves from prior quarters. All other expenses were \$18 million more than expected. Claims administration expenses were \$31 million less than expected due to the reclassification of self-insured’s portion of claims administration costs to non-insurance costs. The reassignment of self-insured expenses does not impact the self-insured assessment.

Separation of Occupational Disease Orders – Sandy Dziedzic

Sandy indicated Claims Administration is undertaking a number of changes to reduce delays in the claims process for quicker claim resolution. One of the issues being addressed is the processing delays of occupational disease claims. A study in 2001 indicated significant delays were caused while collecting work history to proration the employer liability; an average of 126 days from receipt of claim to the Allowance Order. In 2002, Claims had a focused effort on carpal tunnel syndrome (CTS) claims, which resulted in cycle time reduction in claim allowance to 90 days.

Sandy reported the current strategy for the occupational disease claims, effective October 22, 2003, is to separate claim allowance and liability orders, excluding occupational hearing loss and

asbestos claims, and to maintain a priority emphasis on the handling of these claims. Sandy noted it would be a while before actual outcomes are available.

Labor asked for a projection of what the department thinks the savings will be for both the State Fund and Self-Insurance.

Occupational Health Services Pilot Project Update – Diana Drylie

Diana reviewed the pilot projects' goals and organization. She reported there are now 126 providers participating in the Renton pilot – the number of providers in that area has plateaued. In Spokane, there are 146 providers participating and the number of providers is still growing. Diana indicated there is a good mix of provider specialties participating, which is a beneficial to the success of the pilots.

The performance measures were only provided for the Renton pilot (see attachment), Diana indicated she anticipates having measures available for the Spokane pilot at the next quarterly WCAC meeting.

Diana announced the department is planning a Center of Health and Education convention in the near future to meet with the people who are participating in the pilots to discuss what is working and what is not, what is making the most affect.

Diana reported the business and labor advisory boards for the pilots meet quarterly. Renton advisory board is currently working on the education aspect; the Spokane board is looking at the numbers and how they can be improved.

A copy of Diana's presentation is attached as part of the meeting minutes.

Board of Industrial Insurance Appeals (BIIA) Update – Tom Egan

Tom provided graphs and reported on the following BIIA statistics:

- Appeals Filed and Granted by Month: November 2003 was the lowest month in 3 ½ years (17 working days instead of 22) for appeals both filed and granted.
- Total Industrial Insurance Appeals Filed: State Fund appeals filed remains steady at around 3,000; Self-Insurance appeals have gone down after spiking in June 2003.
- Department Reassumption Rate by Quarter: The reassumption rate is a major gage for the Board workload; this last quarter was close to the 27.8% historical average.
- Quarterly Agreements and Dismissals: Agreements have remained fairly steady over the last year; dismissals dropped considerably after spiking in June 2003.
- Affirmance Rate PD&Os and D&Os: State Fund rate was down below 50% this last quarter, which is highly unusual. The Board will be analyzing the drastic decrease over the next month or so, and will provide the outcome to the WCAC. Self-Insured rate remained steady.
- Average PD&O Lag-time by Quarter for Hearing Judges: The average for this last quarter was 25 days for a judge to make a decision on an order, in comparison to the last two quarters of 28 and 27 days respectfully.

- D&O Time Lag by Quarter: For the quarter ending September 2003, the Board time lag was 68 days, a historical high. The time lag was unusually high due to not having the business board member on board.
- Quarterly Average Weeks to Completion: 35.3 weeks this last quarter, which is slight increase over the quarter ending June 2003 of 33.8 weeks. Currently the Board is at 32.5 weeks to completion.
- Caseload at End of Month: 5,434 – lowest caseload since December 1999.
- Final Orders Appealed to Superior Court – Quarterly: Typically 3 to 4% of orders are appealed to Superior Court, however, for the quarter ending September 2003 it was 5%. The increase is attributable to *Cockle* decision orders being appealed and relative to pension reserve issues.

Satisfaction Survey Results – Jerry Gilliland / Cathy Peda of Gilmore Research

Cathy indicated that Gilmore Research began claims satisfaction surveys for L&I in 1998, which has provided the baseline for the future surveys. The 2003 benchmark survey was compared to the 2000 benchmark and the 1998 baseline. Participants in the survey, which were randomly selected, included 300 each employers, time-loss workers and medical-only workers; all with an active claim between July and December 2002. The questions for the surveys were developed jointly between L&I and Gilmore, and were pre-tested. All questions were the same as previous surveys, except for two additional questions asked at the end of the survey.

A fact sheet providing a summary of the results of the satisfaction survey was provided and is attached to the minutes. Recommendations suggested by Gilmore Research as a result of the survey include:

- Review the time it takes to close claims for employers – can it go faster?
- For workers, be more diligent in communicating available benefits and services.
- Be sensitive to time-loss workers' concern about timely start of their payments.
- Continue training on the importance of customer service and listening skills. Both employers and workers want to feel that L&I is protecting their interests.

Questions/Comments/Requests for additional break out of the survey data:

- Can those injured workers who had IMEs be separated out?
- What industries participated? Was there any trend by industry?
- Did you receive a different type of response from the different industries?
- Were you able to capture how many of those surveyed were not able to complete the survey due to a language barrier?
- Can the data be broken out by retro vs. non-retro for employers and injured workers?
- Request was made by the Committee for a copy of the English and Spanish version of the questionnaire.

It was noted that requests for additional break out of the survey data would be provided if available in the database.

Presentation: Indirect Costs – Robert Malooly / Julie Boyer, Sterling Associates

Bob prefaced Julie Boyer's presentation by indicating that due to concerns raised over the years by the WCAC whether workers' compensation premiums were paying more than their share of

administrative costs it was decided to hire a consultant to take a look at how the department was allocating its costs among the programs. The Joint Legislative Audit and Review Committee also recommended that L&I look into this situation. And, more recently, the State auditor issued a finding that the department needed to revise the way administrative costs are allocated among the programs.

Bob indicated the department, with Sterling Associates, has been working to fix this situation in an equitable and fair manner. He reported that Sterling Associates has developed an indirect allocation model, which Julie Boyer will present. Bob indicated the department thinks what has been developed is a good solution, that it is a sound system to distribute administrative costs to more clearly reflect the usage of services being paid for. The cost allocation includes both appropriated funds and non-appropriated benefit dollars.

Bob noted that the department has submitted a supplemental budget request to the 2004 Legislature to authorize the shift in funds for the administration program. A copy of the request was included in the meeting packets. Action is needed by the Legislature to implement phase one.

In addition to the administrative costs, Bob indicated the department has identified the same challenges in Information Services and Attorney General costs. The changes for administrative costs would occur this summer provided the supplemental budget request is approved. The department would expect to phase in changes in Information Services and Attorney General costs over the next two years in order to gather additional data for direct charging and time reporting.

Bob reported one impact to this change would be that the workers' compensation funds would be paying \$1.3 million less this next year for administrative services where some of the other funds will be required to pay more, such as the electrical fund.

Presentation by Julie Boyer, Sterling Associates

A copy of Julie's briefing document on the results of L&I's cost allocation review is attached as part of the meeting minutes. Detail for all the cost centers is available and the committee is welcome to call Julie to review. Julie's phone number is (360) 956-9064.

Sterling Associates recommended the following:

- Accounting Services cost center be allocated based on total expenditures in program cost centers.
- Personnel cost center be allocated based on average annual FTE's in program cost centers.

Questions:

- Why, if the workers' compensation trust is responsible for 97% of the agency's expenditures, does it only pay 94% of the administrative costs?
- What happens if the Legislature does not approve the supplemental budget package? Does that stop the phase in?

Medical Aid Rules Update – Jamie Lifka / Jaymie Mai

Health Services Purchasing (ESHB 1299) – Jamie Lifka

Jamie reported that agency medical directors have been working on implementing ESHB 1299 passed last session. This bill directs the agencies in state purchased health care to develop and implement uniform policies. Participating agencies are also developing, within statutory and Federal authority, common definitions and processes for medical necessity and coverage decisions. Jamie indicated that preliminary draft language for the definition of “proper and necessary” will be out in the next month or so for review. See attached document for complete update and copy of the bill.

Interagency Pharmacy Purchasing (SB 6088) – Jaymie Mai, Pharmacy Consultant

Jaymie indicated that SB 6088 passed last legislative session is an effort to control prescription drug costs. The Health Care Authority, Medical Assistance Administration and L&I are working together to implement a preferred drug list, and develop rules and policies to implement the bill. Complete details regarding implementation and a copy of the bill are attached to the minutes.

Jaymie indicated the department expects a savings of \$1 to \$3 million annually, plus a one time reduction in medical aid reserves of about \$18 million. She indicated the department currently spends approximately \$25 million a year on prescription drugs.

IME Improvement Project Update – Dave Overby

The IME update was delayed until the next quarterly meeting. However, Dave did remind the committee the feedback deadline on the proposed rules was December 10, 2003.

Bob asked the committee members to think about how they may want to restructure the WCAC meetings to allow more input from the committee members. Bob also asked the committee for suggested agenda items.